

clear -- the application processing burdens, litigation and delays that will result from the Commission's proposal to reclassify as pending those applications already acted upon by the Commission far exceed any burdens that the Commission now faces in meeting its statutory obligation to resolve petitions for reconsideration or applications for review currently pending against those applications. Instead of speeding up licensing, the Commission's proposal will significantly delay licensing and impose an extraordinary additional and unnecessary burden on already scarce Commission resources.

25. Tri-State must also point out that the Commission will not even obtain a net benefit from income that it will receive from any auction that might occur for allocation of a frequency already assigned to a licensee whose underlying application is reclassified as pending. In the example of the Tri-State Application, even if the Tri-State Application is returned to pending status and an MX conflict arises between the Tri-State Application (as amended to specify 931.4875 MHz) and a newly-filed MX application for 931.4875 MHz, any revenues that will result from competitive bidding between Tri-State and the new applicant for 931.4875 will be more than offset by the costs that the Commission will incur in processing the application and resolving the litigation that both Tri-State and the new applicant will certainly engage in, including petitions to deny, petitions for reconsideration, applications for review and subsequently judicial appeals. Accordingly, even if the Commission's proposal in the FNPRM were motivated by a desire to

increase revenue by subjecting to competitive bidding frequencies that have already been licensed,⁵⁴ the Commission would not achieve that goal by reclassifying as pending those 931 MHz PLMS applications on which the Commission has already acted.

**V. The Commission's Proposal Diserves
The Public Interest**

26. Finally, Tri-State respectfully submits that the Commission's proposal will not serve the statutorily-mandated public interest goals of rapid deployment of service and efficient use of radio spectrum.⁵⁵ Reclassification of granted 931 MHz PLMS applications as pending will result in immediate loss of the authorization for existing systems. Paging subscribers will be deprived of vital paging service that they currently use for many purposes, including emergency and life-threatening circumstances. The Commission has made no provision for this severe disruption in service that will result from the proposal in its FNPRM.

27. Equally as important, if licensees are unable to reacquire authorization for their systems, the extensive capital expenditure that those licensees have already made will be lost. Instead, the new licensees will be forced to incur duplicate capital expenditures in establishing their own systems. Even if the new licensees are capable of establishing new systems that would equal the existing systems, a substantial amount of time

⁵⁴Of course, the Commission has made clear that maximizing revenue from auctions is not the Commission's sole objective. Second Auction R&O at ¶73; see also 47 U.S.C. §§307(j)(7)(A) and (B).

⁵⁵47 U.S.C. §§151, 309(j)(3).

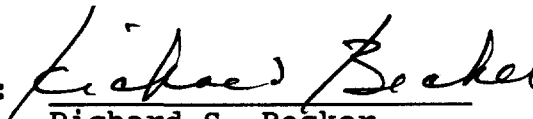
would elapse before such new systems could be implemented for service to the public and an extraordinary duplication of capital expense would result.

28. These facts confirm that the Commission's proposal to reclassify as pending those applications that are subject to reconsideration requests will result in greater burdens on the Commission, more extensive processing delays, an avalanche of new litigation and will not serve the public interest in rapid deployment of service and efficient use of the radio spectrum.

WHEREFORE, for all of the foregoing reasons, Tri-State respectfully opposes that portion of the Commission's FNPRM that proposes to reclassify as pending those 931 MHz PLMS applications "that have been granted, denied or dismissed and are the subject of petitions for reconsideration or applications for review."⁵⁶

Respectfully submitted,

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⁵⁶FNPRM at ¶15.